UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Case No. 2:20-CR-0013-TOR

Plaintiff,

v.

Protective Order Pursuant to 18 U.S.C. § 3509, Regarding Identification of Minor Victims

FAINYAN KAIN JAMES KIMMERLY.

Defendant.

BEFORE THE COURT is the United States' Unopposed Motion for Protective Order Pursuant to 18 U.S.C. § 3509, Regarding Identification of Minor Victims. ECF No. 17. The motion was submitted for consideration without oral argument. Having reviewed the motion and the record, the Court is fully informed.

GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED that the privacy protection measures mandated by 18 U.S.C. § 3509(d) that apply when a case involves a person under the age of eighteen years who is alleged to be a victim of a crime of sexual exploitation, or a witness to a crime committed against another person, apply to this case.

IT IS FURTHER ORDERED that all persons acting in this case in a capacity described in 18 U.S.C. § 3509(d)(1)(B), shall:

- Keep all documents that disclose the names, identities, or any other
 information concerning children in a secure place to which no person
 who does not have reason to know their contents has access; and
- 2. Disclose such documents or the information in them that concerns children only to persons who, by reason of their participation in the proceeding, have reason to know such information.
- 3. Not permit Defendant himself to review discovery outside the presence of defense counsel or a defense investigator;
- 4. Not permit Defendant to keep discovery in his own possession outside the presence of defense counsel or a defense investigator;
- 5. Not permit Defendant to keep, copy, or record the identities of any child or victim identified in discovery in this case.

IT IS FURTHER ORDERED that all papers to be filed in Court that disclose the names or any other information identifying or concerning children shall be filed under seal without necessity of obtaining a Court order, and that the person who makes the filing shall submit to the Clerk of the Court –

1. the complete paper to be kept under seal; and

2. the paper with the portions of it that disclose the names or other information identifying or concerning children redacted, to be placed in the public record.

IT IS FURTHER ORDERED that the parties and the witnesses shall not disclose children's identities during proceedings in this case. The parties and witnesses will refer to the alleged minor victims only by using agreed-upon initials or pseudonyms (e.g., "Minor Victim 1"), rather than their bona fide names, in motions practice, opening statements, during the presentation of evidence, in closing arguments, and during sentencing.

IT IS FURTHER ORDERED that the United States may produce discovery to the defense that discloses the identity and images of alleged minor victims in this case, in order to comply with the United States' discovery obligations.

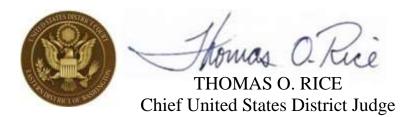
Defendant, his attorneys and investigators, and all of their externs, employees, and/or staff members, shall keep this information confidential as set forth above.

IT IS FURTHER ORDERED that this ORDER shall apply to any attorneys who subsequently become counsel of record, without the need to renew or alter the ORDER.

IT IS FURTHER ORDERED that this ORDER shall apply to the personal identifying information and images of any minors who are identified over the

course of the case, whether or not such minors are known to the United States and/or Defendant at the time the ORDER is entered by the Court.

DATED February 28, 2020.



CERTIFICATE OF SERVICE I hereby certify that on February 24, 2020, I electronically filed the

foregoing with the Clerk of the Court and parties of record using the CM/ECF System, which will provide an electronic copy to Defendant's counsel of record.

> s/ David M. Herzog David M. Herzog **Assistant United States Attorney**